

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

U.S. SECURITIES AND EXCHANGE )  
COMMISSION, )  
Plaintiff, ) Civil Action No. 18-CV-5587  
v. ) Judge John Z. Lee  
EQUITYBUILD, INC., *et al.*, ) Magistrate Judge Young B. Kim  
Defendants. )

**SEC'S REPLY IN SUPPORT OF RECEIVER'S EIGHTH FEE APPLICATION**

The SEC hereby supports the Receiver’s Eighth Fee Application (ECF No. 778). The SEC confirms that it has reviewed the Receiver’s invoices, they substantially comply with the SEC’s billing guidelines, and the SEC approves of their payment. The SEC additionally incorporates its arguments in support of the Receiver’s earlier fee applications. (See ECF Nos. 526, 606, 622, 705, 797). The SEC likewise incorporates the Receiver’s Combined Response to Objections to Seventh and Eighth Fee Applications. (ECF No. 800). For these reasons, and those stated below, the Court should grant the Receiver’s fee application.

## A. The Lenders Repeat their Earlier Objections

The institutional lenders opposition (ECF No. 792) merely repeats objections they lodged in opposition to the Receiver’s Seventh fee application. Namely, the lenders: (a) object to the imposition of a Receiver’s lien, (b) request a delay or holdback of the payment of the Receiver’s fees, and (c) claim the Receiver’s fees are excessive. (ECF No. 792). The SEC and the Receiver have specifically responded to each of these objections (ECF Nos. 797, 800), and those responses continue to show that the lenders’ objections are unavailing.

## **B. Additional Grounds for Granting the Receiver’s Fee Petition**

Beyond the reasons previously cited by the SEC and the Receiver, additional grounds support granting the fee petition. At the September 23, 2020 hearing, the Court reaffirmed the importance of the Receiver’s work and his continued benefit to the estate. The Court also ruled that the Receiver should continue his work administering the claims and priority-dispute resolution processes. (ECF No. 801). Given the Court’s affirmation of the Receiver’s work and guidance for the Receiver to continue, the Receiver’s request for a lien – to be paid only by the “winners” of the priority determination process – is even more warranted. Indeed, it would be fundamentally unjust to have the Receiver continue his Court-mandated efforts under threat that he will not be paid for his work.

Finally, the lenders again attack the Receiver for the amount of his fees and for liquidity issues facing the Receivership. In response, the Receiver notes that his average legal billing rate has decreased to within \$2 per hour of his lowest billing rate to date (which he achieved during the prior billing period). (ECF No. 800, p. 18). The Receiver further advised the Court that, following the Court’s ruling on his rent restoration motion (ECF No. 796) and the sale of property with significant equity beyond any claimed security interests, in excess of \$2.2 million in unencumbered funds will soon be available to the Receiver and available to pay his general expenses. (ECF No. 800, p. 19). The Receiver’s billing rates being near their all-time lows and the Receiver continuing to successfully bring unencumbered funds into the Estate further demonstrates that he is entitled to be compensated for his efforts.

### **C. Conclusion**

The Receiver seeks compensation for work he performed and directed, using his reasonable business judgment, which benefitted the Receivership Estate. His bills reflect his efforts to both fulfill his Court-imposed mandates and to respond to voluminous motions and objections by the institutional lenders. Accordingly, the Court should allow the Receiver to be paid for his efforts, and to continue working for the benefit of the victimized investors and other creditors.

Dated: September 29, 2020

Respectfully submitted,

/s/ Benjamin Hanauer  
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**CERTIFICATE OF SERVICE**

I hereby certify that I provided service of the foregoing Reply, via ECF filing, to all counsel of record and Defendant Shaun Cohen, on September 29, 2020. I further certify that I caused the foregoing Response to be served on Defendant Jerome Cohen, via email at [jerryc@reagan.com](mailto:jerryc@reagan.com).

/s/ Benjamin Hanauer

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